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September 30, 2005

Ms. Amy K. Zimpfer  
Associate Director  
U.S. Environmental Protection Agency, Region IX  
75 Hawthorne Street  
San Francisco, CA 94105

Dear Ms. Zimpfer:

Thank you for your letter of June 29, 2005 regarding Clean Air Act (CAA) permitting of BHP Billiton's (BHP) proposed deepwater port, Cabrillo Port. We understand your decision to permit under Ventura County Air Pollution Control District Rule 10 with additional conditions in accordance with Rule 29. Further, we note the commitments BHP Billiton has made in its June 7, 2005 letter to the Environmental Protection Agency (EPA) in order to minimize the proposed project's impact on air quality. Based on recent conversations on the subject of mitigations and BHP commitments, the types of mitigations appear to be somewhat dynamic. We intend to include these requirements in the EIS and will work with the Maritime Administration (MARAD) to ensure that they are appropriately identified in the Record of Decision. If a license is approved, BHP must then implement sufficient emission reduction programs to meet the intent of their June 7, 2005 letter to EPA.

Listed below are several points requiring EPA confirmation or clarification to ensure we develop a complete and accurate environmental impact statement for Cabrillo Port.

1. While not explicitly stated in your letter, we are proceeding with the understanding that a Prevention of Significant Deterioration (PSD) Permit will not be required and that PSD regulations will not apply to Cabrillo Port. This is based on EPA comments made during an interagency teleconference that included EPA, Region IX and U.S. Coast Guard (USCG) on August 31, 2005.
2. In various interagency discussions, the risk management program requirements of the CAA Section 112(r) have been raised. Based on our review of these regulations the USCG has concluded that this section of the Clean Air Act does not apply to this deepwater port project and unless EPA indicates otherwise, we do not intend to require any specific information from the applicant.
3. Our understanding is BHP has recently committed to performing all the air modeling recommended by your office; i.e. modeling for all offshore sources using the most recent five years of meteorological data. Does EPA anticipate requiring any additional air modeling to support past or present decisions relative to this project?
4. Title 40 CFR 81.305 contains air quality attainment area designations for California. The regulation provides air quality designations for "South Coast Air Basin", "South Central Coast Air Basin-Ventura County", and "South Central Coast Air Basin-Channel Islands". However, this regulation does not specifically delineate the extent of the air basins beyond the boundaries of Ventura and Los Angeles Counties (i.e., the portions of the Pacific Ocean which are between the specified air basins). Do the air quality designations for the

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aforementioned air basins apply to the portions of the Pacific Ocean that are beyond three miles of California counties (including islands of those counties)? If yes, how far into the Pacific Ocean do these designations apply? If no, what are the air quality designations for portions of Pacific Oceans that are beyond three miles of California counties (including islands of those counties)?

As you are aware, the Deepwater Port Act emphasizes the importance of timely processing of license applications. We would appreciate your agency's concurrence or disagreement with items 1 and 2 and response to questions 3 and 4 within one month of the date of this letter. If you have any questions concerning this matter, please contact me at (202) 267-0225 or Mr. Frank Esposito at (202) 267-0053.

Sincerely,



M. A. PRESCOTT

Chief, Deepwater Ports Standards Division

U.S. Coast Guard

By direction

Copy: Mr. Dwight Sanders  
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